

SUMMARIZATION IN ENGLISH OF AN ORIGINAL JAPANESE DOCUMENT SUBMITTED AS AN APPENDIX TO THE DEFENSE MOTION ON JURISDICTION.

Production of Evidence and its Explanation

In order to establish the main points in the motion with regard to the jurisdiction of the Tribunal which has been lodged with the Tribunal according to Article 10 of the Charter of the International Military Tribunal for the Far East, dated May 2, 1946, the defendants, desiring to produce the following evidence, hereby state the facts and their relevancy which are to be established pursuant to Article 9, paragraph (f) of the Charter.

Documents which will be admitted as judicial notice by the Tribunal are enumerated in the last part of this document.

Defendants' Document No. 1

Treatise on International Law in Time of War, by SAKUTARO TACHI, July 20, 1944.

The facts which shall be established by the above document.

We intend to establish the manner in which the words "War Criminal" in Article 7 of the Potsdam Declaration was understood by the Japanese when they accepted the Declaration.

Relevancy.

Dr. S. Tachi was one of the most famous scholars in the study of international law in Japan; his book has been read most widely and is believed. He defined crimes in the time of war (here he annotated in particular in English) and enumerated their kinds.

Defendants Document No. 2

Lecture on International Law in Time of War, by Dr JUMPEI SHINOBU, Vol. II, November 23, 1941.

The facts which shall be established by the above document.

Same as for Defendants Document No. 1.

Relevancy.

Dr. J. Shinobu is an authority on international law in Japan and has been legal advisor to the Military and Naval Ministries during the War. His books were widely read and believed by the persons concerned in the government circles of Japan as well as by people at large. On page 869 and in following pages of this book, he defines the word "SENRITSUHIN" (here he annotated particular in English "War Crimes") and enumerated the examples.

Defendants' Document No. 3

International Law, by Oppenheim, Vol II, 5th Edition, Sept. 1935.

The facts which shall be established by the above document.

We intend to establish the manner in which the peoples of the U.S.A., England, China, Soviet Russia, and other countries construed the words "War Criminal" at the time when the Potsdam Declaration was issued.

Relevancy.

The above book was one of the most authoritative books in the world on international law, and has been widely read and believed by English speaking people as well as in other countries at large. On page 453 and the following pages the meaning and the kinds of War Crimes are enumerated.

Defendants' Document No. 4

Pamphlet entitled "The Last Imperial Conference" February, 20, 1946.

The facts which shall be established by the above document.

We intend to establish that Japan paid great attention to Article 9 of the Potsdam Declaration when Japan decided whether she would accept the Declaration or not, and in what manner the Japanese government construed the words "War Criminal" in the Article at that time, when she accepted the Declaration. The following witnesses relate to this matter.

Relevancy.

The above pamphlet was written by Hisatsuno Sekomizu, Chief Secretary of the Suzuki Cabinet. On page 63 of the pamphlet, there is an account of Supreme council for the direction of war, which was held on August 9, 1945.

Defendants' Witness No. 1 - KANTARO SUZUKIThe fact which shall be established by the above witness.

We intend to establish in what manner the Japanese government construed the words "War Criminal" in Article 9 of the Potsdam Declaration at the time when the Declaration was accepted.

Relevancy.

We intend to solve the question about the meanings of the words used in the Potsdam Declaration by the testimony of the

witness who was Prime Minister at the time when Japan accepted the Declaration, and who was the highest responsible authority in the decision of the acceptance of the Declaration.

Defendants' Witness No. 2 - HISATSUNE SEKOMIZU

The fact which shall be established by the above witness.

Same as by Defendants' witness No. 1

Relevancy.

The witness was Chief Secretary of the Suzuki Cabinet and assisted Premier Suzuki and his Cabinet.

Documents and speeches which will
be recognized as judicial notice

1. Moscow Declaration, October 30, 1943.
2. Announcement of Crimea Conference, February 14, 1945.
3. Speech by W. Churchill at Parliament of Canada, Dec. 30, 1941
4. Speech by W. Churchill at House of Lords of England March 21, 1943.
5. Radio Speech by F. D. Roosevelt, October 12, 1942.
6. Speech by F. D. Roosevelt, February 12, 1943.
(Above six documents relate to Motion No. 1.)
7. Memorandum for settlement of disputes in the area of Lake Khasan between Soviet Russia and Japan, August 1938.
8. Memorandum between Soviet Russia and Japan for settlement of disputes in the area of the Khackhin-Gol River September 1939.
9. Neutral Treaty between Soviet Russia and Japan, April 13, 1941
(Above three documents relate to Motion No. 2)
10. Treaty of Alliance between Thai and Japan.
(This document relates to Motion No. 3)